

EXPLANATORY NOTES

WRIT OF SEIZURE BY GARNISHMENT AFTER JUDGMENT (SJ-287, article 641 C.C.P.)

A writ of seizure by garnishment after judgment orders the garnishee, i.e. the person who pays salaries and wages to your debtor, to declare and deposit the seizable portion of what that person owes the debtor. The writ must be served on the garnishee and the debtor. For further information and for contact information for all Québec courthouses, you can consult the list of [courthouses](#) on the Internet site of the ministère de la Justice.

TYPE OF FORM

The *Writ of seizure by garnishment after judgment – salaries and wages* form is available in dynamic PDF format, i.e. after the form is downloaded, it may be completed on screen.

PROCEDURE

After completing the form, you should keep a copy for your personal records. You must then go to the courthouse in the district in which the judgment was rendered to have the writ of seizure by garnishment signed by the court clerk. Subsequently, you must have a bailiff serve the writ on your debtor and the garnishee. You should also plan to pay the [costs](#) at that time.

Writ of seizure by garnishment after judgment – salaries and wages

General information on the writ

METHOD OF DECLARATION AND DEPOSIT

The garnishee may declare and deposit the seizable portion of the debtor's income by appearing at the office of the court or by using the attached form. The original copy must be sent by registered or certified mail to the office of the court, together with a cheque or postal money order, made out to the Minister of Finance, indicating, on the back thereof, the court record number.

FAILURE TO DECLARE

A garnishee who fails to declare may be ordered to pay the seizing creditor's claim, including principal, interest and costs, as well as the costs of the present (art. 634 C.C.P.).

CALCULATION OF THE AMOUNT TO WITHHOLD AND DEPOSIT

From the GROSS WEEKLY INCOME,* **subtract** one of the following amounts, according to the situation:

- \$120 a week if the debtor has no dependants
- \$180 a week if the debtor is supporting one or two other persons (spouse, child, or is the main support of a relative)
- \$180 a week + \$30 for every additional person if the debtor is supporting more than two persons

WITHHOLD; deposit 30% of the above result.

Examples of calculation

Single person earning \$400 a week

$\$400 - \$120 = \$280 \times 30\% = \84 to be deposited each week

Person earning \$400 a week, with one or two dependants

$\$400 - \$180 = \$220 \times 30\% = \66 to be deposited each week

Person earning \$400 a week, with three other dependants (Example: a spouse and two children)

$\$400 - (\$180 + 30\$ (3^{\text{rd}} \text{ person})) = \$190 \times 30\% = \$57$ to be deposited each week

* **In calculating income** (salaries and wages), **you must take into account** any remuneration in money, kind or services, given for services rendered under a contract of employment, service, enterprise, or mandate, **excepting**:

- employer contributions to pension, insurance or social welfare funds;
- the value of food and lodging supplied or paid for by the employer for work-related trips;
- passes given by a transportation undertaking to its employees.

Support obligation

If the seizure by garnishment concerns a support obligation (see the relevant page), the garnishee must withhold and deposit 50% of the debtor's gross income (article 553 of the *Code of Civil Procedure, in fine*).

PERIOD OF SEIZURE

The seizure of the seizable portion of salaries and wages remains binding, so long as the debtor retains his or her employment and all the claims filed by his or her creditors have not been paid.

If the seizing creditor is a creditor of support or if a claim regarding a support debt is filed in the record, the seizure remains binding until release is given.

**WE SUGGEST YOU CONSULT AN ATTORNEY
IF YOU REQUIRE ADDITIONAL INFORMATION**

▶ How to fill out the writ of seizure by garnishment

- Provide all the information requested in all the required sections.
- The numbers of the explanatory notes refer to the corresponding sections of the form.

HEADING

- 1** To fill out the heading of the writ, transcribe, in the appropriate spaces, the information given in the heading of your judgment.

To identify the Plaintiff and Defendant, refer to the judgment.

You must enter the debtor's name and address on the writ, along with the nature of the debtor's employment and the place where the debtor works, if you know this information.

Enter the name and address of the garnishee.

AMOUNT OF THE SEIZURE

- 2** Identify the party in whose favour the judgment was rendered, identify the opposite party and enter the date of the judgment.

- 3** Enter the amount awarded (the principal without interest or costs).

- 4** Enter the interest rate, the date as of which the interest began to run and the additional indemnity, if applicable.

- 5** Enter the total costs the court clerk awarded you in the taxed bill of costs. For Small Claims matters, enter the costs you were awarded by the court judgment.

- 6** Enter the total expenses incurred since the judgment was rendered, regarding:

- the filing of judicial documents;
- the delivery of copies of those documents by bailiff or registered mail;
- the judicial fees of attorneys under the *Tariff of judicial fees of advocates*.

Do not include the fees paid for the professional services of an attorney.

- 7** Enter the interest accrued since the date of the judgment awarding costs, at the legal rate.

- 8** Enter, if applicable, the fees paid to the court clerk for the issue of the writ.

- 9** For Small Claims only, enter the fees paid to the bailiff and attorney for the execution of the judgment (25% of the amount of the judgment, up to \$100.00).

- 10** If applicable, enter any amount previously paid by the judgment debtor and subtract it from your TOTAL claim to find the BALANCE.

ON BEHALF OF THE SOVEREIGN

Enter only the address of the courthouse of the judicial district where the writ of seizure will be issued.

You or the attorney representing you must sign the writ.

The clerk of the appropriate court must also sign the writ.

CANADA
Province of Québec
District:
Record No.

1		v.	
	Plaintiff		Defendant
	Nature of debtor's employment (if known) Address of debtor's employment (if known)	and	
			Garnishee

**WRIT OF SEIZURE BY GARNISHMENT AFTER JUDGMENT
– SALARIES AND WAGES**
(article 641 *Code of Civil Procedure*)

2 Whereas the _____ obtained judgment before this court against the _____ on _____.

Amount awarded in judgment	3	\$ _____
Interest rate of _____ % as of _____ and additional indemnity <input type="checkbox"/> , if applicable	4	\$ _____
Expenses awarded in judgment (costs)	5	\$ _____
Costs after judgment	6	\$ _____
Interest on costs	7	\$ _____
Cost of present writ	8	\$ _____
Extrajudicial fees (Small Claims only)	9	\$ _____
TOTAL		\$ _____
less		
Amount paid (partial execution)	10	\$ _____
BALANCE		\$ _____

SUPPORT OBLIGATION

ON BEHALF OF THE SOVEREIGN

We command you, **garnishee**, to DECLARE and DEPOSIT the seizable portion of what you owe the seized debtor. That declaration must be deposited with the office of this Court, at the courthouse of _____, located at _____, within TEN (10) days following the service of this writ, personally or by registered or certified mail. You must SERVE a copy of your first declaration on the seizing creditor by registered or certified mail and must declare and deposit again in the same manner every month. If the debtor leaves his or her employment, you must forthwith so declare.

The seizing creditor must serve on the debtor, by registered or certified mail, a copy of the first declaration of the garnishee, and proof of the service must be filed in the office of the court.

The seizing creditor is authorized to execute the judgment for his or her attorney's fees in his or her name.

Consent of attorney: _____

At _____ on _____

Attorney/seizing creditor

Court clerk

No.

Plaintiff

v.

Defendant

and

Garnishee

**WRIT OF SEIZURE BY GARNISHMENT
AFTER JUDGMENT**

(article 641 of the
Code of Civil Procedure)

Attorney:

CANADA
Province of Québec
District:
Record No.

Plaintiff

v.

Defendant

and

Garnishee

DECLARATION BY THE GARNISHEE

I, the undersigned, _____, garnishee (or person authorized to declare on behalf of the garnishee), declare the following:

Affirmative declaration

<input type="checkbox"/>	At the time of service of the writ of seizure, the debtor was employed by the garnishee. The gross income owing to the debtor is _____ payable on _____ of every _____ (frequency). The seizable portion of the gross income is _____ (see the general information on the reverse side of the writ). Explanations/Additional information (if applicable):
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Negative declaration

<input type="checkbox"/>	At the time of service of the writ of seizure, the debtor was not employed by the garnishee. Explanations/Additional information (if applicable):
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Renewed declaration

<input type="checkbox"/>	Since the last declaration made in this case, the gross income owing to the debtor is _____ payable on _____ of every _____ (frequency). The seizable portion of the gross income is _____ (see the general information on the reverse side of the writ). Explanations/Additional information (if applicable):
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Termination of employment

<input type="checkbox"/>	The debtor left his/her employment or is no longer employed by the garnishee.
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Place and date of signature

Signature of garnishee

DEFENDANT'S ACKNOWLEDGMENT OF RECEIPT of a copy of the garnishee's first declaration

At _____, on _____.

Signature of defendant